

REMARKS

In support of the traverse, it is submitted that the Examiner is misinterpreting Rule 13.2 PCT. Indeed, the composition under claim 18, which is a new product, is the single general inventive concept of the present invention.

Therefore, under Annex B, part 1 of the administrative instructions, different categories of claims may be combined (Point (e) (i)) : << in addition to an independent claim for given product, an independent claim for a process specially adapted for the manufacture of said product, and an independent claim for a use of said product>>.

In other words, the fact that a claim pertains to a different category (i.e. method of use or method of manufacturing a separate group of invention) is not grounds for a restriction requirement.

PCT patent applications should be treated under the PCT rules and not under US practice. Ms. Boutillon (PCT legal division) has explained in various conferences the situation where no lack of unity objection was raised during the PCT phase, an excessive number of groups of invention are identified during the US national phase should no longer exist.

Groups I and IV should be considered as linked by a single common invention concept according to the above grounds for traverse as far as they concern on one hand a product and on the other hand a process specially adapted for the manufacture of said product.

The method of using which was artificially split into 5 groups of inventions should be considered as based on illustrated combined biological activities of the product (activity of the composition on keratinocyte - page 23; activity on fibroblasts - page 26; activity on melanocyte - page 27;

stimulation of keratinocyte and of fibroblasts - page 29; anti-inflammatory activity - page 30).

As explained on pages 33 to 35 and in particular on page 35, lines 17-22 of the specification, all these biological activities contribute to the <<repair and the regulation of the physiological balance between the various constituents >> of the skin. Hence it follows that the beneficial action on the skin is the technical problem solved by the claimed composition.

Therefore it is not justified to split said method of using claims into various groups of invention whereas the same underlying technical effect.

It is further noted that a product may be linked under rule 13.2 PCT with a use of the product.

Accordingly, reconsideration and withdrawal of the restriction requirement is requested.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, on September 15, 2003.

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Linda D'Elia September 15, 2003